

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 8853 of 2005**

Between:

M.Yoga Narasimham, s/o M.V.M.Gopalacharyulu,  
U/s o/o Superintending Engineer, Operation, APSPDCL, Vijayawada.

**..... PETITIONER**

AND

- 1 The Chairman and Managing Director, APSPDCL, Thirupathi.
- 2 The Enquiry Officer and Chief General Manager/Expr. APSPDCL, Tirupathi.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of certiorari or any other appropriate writ, order or direction by quashing the show cause notice of dismissal dated 1-4-2005 issued against the petitioner by declaring the same as illegal, arbitrary, malafide in colourable, exercise of power of the 1st respondent and unconstitutional being violative of Articles, 14, 16 and 21 of Constitution of India and consequently direct the 1st respondent to reinstate the petitioner into service with all consequential benefits.

**Counsel for the Petitioner:PARTY-IN-PERSON**

**Counsel for the Respondent Nos.1 and 2: MR.SAMINENI KISHORE**

**The Court at the admission stage made the following O R D E R:**

The writ petition is filed challenging the action of the first respondent in issuing the impugned show cause notice of dismissal from service as illegal and arbitrary.

Alleging certain irregularities, a regular departmental enquiry was ordered against the petitioner. The Enquiry Officer after conducting detailed enquiry submitted his report to the first respondent. The disciplinary authority having accepted the findings of the Enquiry Officer issued the impugned show cause notice dated 01.04.2005 awarding the punishment of "Dismissal from Service". Aggrieved by the same, the present writ petition is filed.

The petitioner in person contended that the findings of the Enquiry Officer are not based upon evidence and that he was denied the right of cross-examination of one witness. He further contended that after completion of enquiry though he was afforded opportunity to file written statement, the same was not considered by the disciplinary authority. Lastly, he contended that the Enquiry Officer travelled beyond the scope of departmental enquiry and, therefore, the impugned show cause notice is liable to be set aside.

Learned standing counsel appearing for the respondents opposed the same.

The impugned show cause notice is only suspension order pending enquiry. Normally, this Court will not interfere with the show cause notices unless the authority who passed the notice lacks jurisdiction or the principles of natural

justice have been violated. Insofar as first contention of the petitioner is concerned that the findings are not based upon evidence, it is for the disciplinary authority to decide whether the show cause notice was issued basing upon the evidence. The second contention with regard to denial of right of petitioner to cross-examine one witness is required to be gone into by the disciplinary authority. The other contentions with regard to the aspect of not considering the written statement filed by the petitioner and that the Enquiry Officer travelled beyond the scope are required to be decided in the departmental enquiry. Since, it is not a case where the principles of natural justice are violated or the authority who passed the order lacks jurisdiction, this Court will not interfere with the impugned show cause notice.

Accordingly, the writ petition is dismissed. Pursuant to the impugned show cause notice, petitioner has submitted explanation, and appropriate decision has to be taken by the disciplinary authority in accordance with the rules and regulations. There shall be no order as to costs.

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(K.C.BHANU,J)

Dt:21<sup>st</sup> April, 2005

usd

To

- 1 The Chairman and Managing Director, APSPDCL, Tirupathi.
- 2 The Enquiry Officer and Chief General Manager/Expr. APSPDCL, Tirupathi.
- 3 Two CD copies.